

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)	
ARTESIAN WASTEWATER MANAGEMENT,)	
INC. FOR A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	PSC DOCKET NO. 19-0495
PROVIDE WASTEWATER SERVICES)	
PURSUANT TO 26 <i>DEL. C.</i> § 203D)	
(FILED AUGUST 5, 2019))	

ORDER NO. 9457

AND NOW, this 12th day of September 2019, the Delaware Public Service Commission (the “Commission”) determines and Orders the following:

WHEREAS, the Commission exercises regulatory oversight over non-governmental wastewater public utilities that serve fifty or more customers. See 26 *Del. C.* §§ 102(2) and 203D (a). That regulatory oversight includes the authority to grant Certificates of Public Convenience and Necessity (“CPCN”) to enable an entity to begin the business of a wastewater public utility or to permit an existing wastewater public utility to extend its system and operations. See 26 *Del. C.* § 203D (a). Under such statutory regime, and specifically 26 *Del. C.* § 203D(d)(2), a wastewater utility may obtain a CPCN for a new service territory if it submits petitions executed by the landowners of record of each parcel or property to be encompassed within such new proposed service area which request that the utility’s wastewater services be extended; and

WHEREAS, on April 1, 2005, the Commission adopted final *Regulations Concerning the Jurisdiction of the Public Service Commission to Grant and Revoke Certificates of Public Convenience and Necessity to Provide Wastewater Services*, 26 *Del. Admin. C.* § 6001 (the “Regulations”). These Regulations implement the CPCN regime for public wastewater utilities; and

WHEREAS, Artesian Wastewater Management, Inc. (“AWMI” or the “Company”) is a public utility offering wastewater services and is subject to the regulatory oversight of the Commission; and

WHEREAS, on August 5, 2019, AWMI filed an application (“Application”) requesting a CPCN to provide wastewater services to one parcel of land in Sussex County, Delaware, identified as Tap Map Parcel No. 234-4.00-17.00 (the “Proposed Service Area”); and

WHEREAS, as required under 26 *Del. C.* § 203D(d)(2) and the Regulations, AWMI included in its Application: (1) a petition requesting wastewater services signed by all landowners of record of each parcel or property encompassed within the Proposed Service Area; (2) copies of the United States Postal Service forms verifying that the Company sent, via certified mail, a Commission-approved notice to all landowners of record of each parcel included in the Proposed Service Area; (3) a list of the County tax map parcel identification numbers of the properties and identification of all landowners of record included in the Proposed Service Area; (4) a copy of the associated tax map clearly marking the Proposed Service Area; and (5) a copy of a letter from Sussex County stating no objection to the Application;¹ and

WHEREAS, as required by the Regulations, Commission Staff (“Staff”) requested written comment from the Division of Water Resources of the Department of Natural Resources and Environmental Control (“DNREC”), the Delaware Office of State Planning Coordination (“OSP”), and the Sussex County Engineering Department (the “County”) regarding the Proposed Service Area; and

¹ As required by the Regulations, an application that extends services into the service territory of a municipality, government agency or wastewater authority *must* submit written documentation that such entity has been informed of and has approved such an expansion by the applicant.

WHEREAS, DNREC did not provide a response; however, the lack of response should not be taken as an indication that DNREC has any issue(s) relating to AWMI's ability to provide safe, adequate, and reliable wastewater services to its existing customers; and

WHEREAS, the County responded that it had reviewed the Application and noted that the parcels of the Proposed Service Area are located in the Tier 3 Coordinated CPCN areas per the County's Sewer Tier Map; the County further states that it will not object to the Commission's granting AWMI's request for a CPCN for the Proposed Service Area; and

WHEREAS, OSP filed a response that provided the Commission with the State of Delaware's investment level planning information with respect to the parcels included in the Proposed Service Area; notably, OSP expressed that the state has no intention to invest in infrastructure upgrades or additional services for this area unless necessary for the health, safety, and welfare of the existing residents; and

WHEREAS, Staff has reviewed the Application and found no errors or omissions. Staff reports to the Commission that the Application meets all applicable requirements for granting a CPCN pursuant to 26 *Del. C.* § 203D and the Regulations; and

WHEREAS, for these reasons, Staff finds that AWMI has met the requirements for the granting of a CPCN and, therefore, has recommended that the Commission approve the Application;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to the provisions of 26 *Del. C.* § 203D(d)(2), the Application is approved and the Commission hereby grants a CPCN to AWMI to provide wastewater public utility services to the area more specifically identified by Sussex County Tax Map Parcel No. 234-4.00-17.00.

2. AWMi shall comply with any and all federal, state, county, and local statutes, ordinances, orders, regulations, rules, and permit conditions that are applicable, or may become applicable, to any matter involving wastewater utility services provided to the service territory granted by this CPCN.

3. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary